IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THRUSDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 3905 of 1999

Between:

The Gram panchayat,

Annaram Sharief Village,

Parwathagiri Mandal,

Warangal District rep.by its Sarpanch

... PETITIONER

AND

1. The Secretary, Revenue Department, Government of AP

Secretariat, Hyderabad.

2. The District Collector,

Warangal District, Warangal

3. The Mandal Revenue Officer

Parvathagiri Mandal, Warangal District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus declaring the proceedings of the 2nd respondent in D.Dis.B6/5025/94, dated 10.08.1998 as illegal, arbitrary and contrary to the provisions of the A.P. Panchayat Raj Act, set aside the same and restrain the respondents from interfering from any way with the lands in Sy.Nos.375/1,489/1,8,10 to 13 admeasuring Ac.5 situated at Annaram Sharief village, Parwathagiri Mandal, Warangal District and pass such other order or orders

FOR THE PETITIONER: MR.J.VENKATESWARA REDDY- Advocate

FOR THE RESPONDENT NOS.1 TO 3: GP FOR REVENUE

The Court Made the Following Order:

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ORDER:

This writ petition is filed, seeking Writ of Mandamus, to declare the proceedings of the second respondent - District Collector, issued in D. Dis.B6/5025/94, dated 10.08.1998 as illegal, arbitrary and contrary to the provisions of the Andhra Pradesh Panchayat Raj Act, 1994 (for short "the Act").

The land in Survey Nos. 489/1, 489/8, 489/10, 489/11, 489/12, 489/13 and 375/1 totally admeasuring in Ac.5.02gts, situated in Annaram Sharief Village, Parvathagiri Mandal, Warangal District is *poramboke* land, under the control of the revenue authorities; on the application of the petitioner-Grampanchayat, on their plea that the said poramboke land vests with the Gram panchayat under Section 58(1) of the A.P. Panchayat Raj Act, 1994, possession of the same was given to the petitioner-Grampanchayat by conducting a panchanama. Subsequently, the Mandal Revenue Officer, has submitted report to the District Collector, stating that under Section 58(1) of the A.P. Panchayat Raj Act, 1994, only certain categories of poramboke lands vest with the Gram panchayat and having regard to the nature of poramboke lands in question, they do not vest with Gram panchayat and handing over of the same to the petitioner-Panchayat is illegal. On the report submitted by the Mandal Revenue Officer, Parvathagiri Mandal, proceedings under Section 166-B of the

A.P. (Telangana Area) Land Revenue Act, 1317-Fasli, were initiated to resume the land in question. After issuing notice and conducting enquiry, The District Collector has passed order dated 10.08.1998 to resume the land in an extent of Ac.4.17guntas and ordered to make necessary entries in the Prohibitory Order Book, reserved for public purposes. As against the said order, this writ petition is filed.

This Writ Petition is filed mainly on the ground that there is no jurisdiction to the District Collector to pass an order for resumption of the land in question in exercise of powers under Section 166-B of the A.P. (Telangana Area) Land Revenue Act, 1317-Fasli. It is further the case of the petitioner-Grampanchayat that the land in question also vests with the Gram panchayat in view of the provisions under Section 58 of the A.P. Panchayat Raj Act, 1994.

Respondents have filed counter affidavit stating that earlier, without conducting proper enquiry, the Mandal Revenue Officer, Parvathagiri Mandal, has issued a Memo to the Mandal Revenue Inspector, to hand over the land in question to the Gram panchayat on the premise that the same vests with the Grampanchayat in view of Section 58 of A.P.Panchayat Raj Act, 1994. However, as it is noticed that the said land did not vest with the Grampanchayat, enquiry was conducted and report was submitted by the Mandal Revenue Officer; on which, proceedings were initiated under Section 166-B of the A.P. (Telangana Area) Land Revenue Act, 1317 Fasli, to resume the land. It is further stated that after conducting necessary enquiry under Section 166-B of the A.P.(Telangana Area) Land Revenue Act, 1317 Fasli, orders were passed on 10.08.1998 and consequently, possession was also taken by conducting panchanama on 26.02.1999.

From a reading of provisions under Section 58 of the A.P.Panchayat Raj Act, 1994, which corresponds to Section 67 (1) A.P.Grampanchayats Act, 1964, only certain porambokes, namely, grazing grounds, threshing floors, burning and burial grounds, cattle stands, cart-stands topes, which are not required for any specific purpose, vest with the Grampanchayat. So far as, present case is concerned, having regard to the entries made in the revenue records, only land covered by Sy.No.375/1, admeasuring Ac.0.25 guntas alone is recorded as burial grounds; the other lands, which are subject matter of resumption orders, are not categorized in any of the category as mentioned in

Section 58 of the A.P.Panchayat Raj Act, 1994. In that view of the matter, when the possession was handed over without proper enquiry, it is always open fro the respondent authorities to exercise powers under Section 166-B of the A.P. (Telangana Area) Land Revenue Act, 1371 Fasli. I do not find any illegality or irregularity in the impugned order passed by the District Collector for resumption of the land.

The Writ Petition is devoid of merit and accordingly dismissed. No Costs.

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(R. SUBHASH REDDY, J)

July 1, 2004

Dsk

To

1. The Secretary, Revenue Department

Secretariat, Hyderabad

2. The District Collector

Warangal District, Warangal

3. The Mandal Revenue Officer

Parvathagiri Mandal, Warangal

4. Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad

5. Two C.D. Copies